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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,534	03/21/2000	Hemant Madan	004770.00524	7125

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BANNER & WITCOFF, LTD.  
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WASHINGTON, DC 20005-4051

EXAMINER
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BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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02/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/531,534

Applicant(s)

MADAN ET AL.

Examiner

DOUGLAS B. BLAIR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-17, 19-25 and 27-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-17, 19-25 and 27-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/13/2008 has been entered.

### ***Response to Amendment***

The applicant amended claims 1, 4, 12, 20, 28, and 25 on 8/27/2007 and claims 3, 12, 15, 20, and 27-34 on 2/13/2008. Claims 1-6, 8-17, 19-25, and 27-35 are currently pending.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 8/27/2007, with respect to the specification object have been fully considered and are persuasive. The specification objection has been withdrawn.

Applicant's arguments filed 8/27/2007 with respect to the pending claims have been fully considered but they are not persuasive. The applicant's arguments are out of line with the current scope of the claims. Specifically, the applicant argues that, "In Kerrigan, requested data is entered into a spreadsheet regardless of information currently displayed on a user device." The applicant, however, is not claiming what is "currently" displayed on a device but instead the applicant's broader language reads "at least one portion of the information displayed on the user

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terminal". Kerrigan's spreadsheet reads on "at least one portion of the information displayed on the user terminal" as claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner sees no limiting definition of "active keys" in the applicant's specification so the claims are given the broadest reasonable interpretation.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31-34 recites the limitation "the network node". There is insufficient antecedent basis for this limitation in the claim because the applicant's amendment removed the previous reference to a network node.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 13-17, 19-25, and 27-34 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13-17 and 19 are directed towards only the computer program in the respective claims in which they depend upon and are therefore treated as software per se. Claims 20-25 and 27 are directed towards a system comprising only a real time server. Page 9, lines 11-18 of the applicant's specification make it clear that the real time server is software per se. Claims 28-34 are directed towards an apparatus comprised of a transmitting interface, a monitoring interface, and an update module which are all software elements. As the apparatus is only comprised of software elements, it is treated as software per se. Because claims 13-17, 19-25, and 27-34 are all directed towards software per se, they do not fit into any statutory category of invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 12-13, 15-17, 20-21, 23-25, 28-30, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,600,725 to Roy in view of U.S. Patent Number 5,404,488 to Kerrigan.

The mapping of the claims provided in the Final Rejection on 3/26/2007 still applies. For an explanation for how the amended portions are taught by the references see the Response to Arguments section in this office action.

Claims 6-11, 14, 19, 22, 27, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,600,725 to Roy in view of U.S. Patent Number 5,404,488 to Kerrigan in further view of U.S. Patent Number 6,035,287 to Stallert et al.

The mapping of the claims provided in the Final Rejection on 3/26/2007 still applies.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/

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